

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

EDWARD M. ZINNER,

Plaintiff,

v.

No. 2:14cv163

RICHARD P. OLENYCH,

and

LONE TREE PRINTING, INC.,

Defendants.

ORDER

This matter is before the Court on: (1) Defendants' motion to strike certain exhibits attached to Plaintiff's brief in opposition to summary judgment (ECF No. 30); (2) Plaintiff's motion to amend/correct a scrivener's error in his previously attached affidavit (ECF No. 39); and (3) Defendants' motion for sanctions premised on untimely pretrial disclosures under Rule 26(a)(3) of the Federal Rules of Civil Procedure (ECF No. 40). The Court held a hearing February 6, 2015 for their resolution.

For the reasons stated on the record, Defendants' motion to strike certain exhibits is GRANTED, and the documents located at ECF Nos. 27-1, 27-9, 27-10, 27-12, 27-13, 27-14, 27-16, 27-18, and 27-19 are STRICKEN from the record for purposes of resolving Defendants' motion for summary judgment, (ECF No. 26). In addition, to the extent that Plaintiff intends to rely on his own personal knowledge to support facts alleged to be in dispute

pursuant to Local Rule 56(B), Plaintiff may file a new affidavit setting forth facts that would be admissible in evidence, showing that the affiant is competent to testify on the matters stated, and demonstrating that the affiant has personal knowledge of the facts sworn to and his basis therefor, in compliance with Rule 56(c)(4) of the Federal Rules of Civil Procedure. Plaintiff must file such an affidavit, if at all, no later than February 20, 2015. If Defendants believe that an affidavit filed by Plaintiff does not comply with Rule 56 of the Federal Rules of Civil Procedure, then Defendants may file a response within ten (10) days of receipt of such affidavit. Both filings are restricted to facts underlying the parties' previously briefed arguments on summary judgment and no further briefing is permitted.

Because the Court has stricken the affidavit that Plaintiff seeks to correct (ECF No. 27-1), his motion to correct (ECF No. 39) is TERMINATED as MOOT.

Finally, for the reasons stated on the record, Defendants' motion for sanctions (ECF No. 40) is TERMINATED as MOOT, in light of the new trial date and rescheduled final pretrial conference.

IT IS SO ORDERED.

/s/   
Douglas E. Miller  
United States Magistrate Judge

DOUGLAS E. MILLER  
UNITED STATES MAGISTRATE JUDGE

Norfolk, Virginia  
February 6, 2015